



State of Washington
Department of Revenue

Excise Tax Advisory

Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

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REPEALED 9/14/2001

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RETAIL SALES TAX: CONSTITUTIONAL ISSUES

Issued June 5, 1970

REPEALED 9/14/2001

Are there constitutional issues in requiring businesses to account for and pay over sales taxes due from their customers?

The taxpayer contends that an assessment issued for a sales tax deficiency constitutes the taking of private property for public use without just compensation and that RCW 82.08.050 violates the equal protection clause of the Fourteenth Amendment since some persons are not required to collect taxes for the state while others are compelled to serve as tax collectors without compensation.

The department held these constitutional issues have no substance. The constitutionality of requiring businesses to account for and pay over taxes due from their customers has long been removed from the area of debate. First National Bank v. Kentucky, 9 Wall 353, 19 L. Ed.701, (1870); Citizens National Bank v. Kentucky for Boyle County et al, 217 U. S. 443, 54 L. Ed. 832 (1910); Pierce Oil Corporation v. Hopkins, 264 U. S. 137, 68 L. Ed. 593 (1924); Morrow v. Henneford, 182 Wash. 625 (1935); and Rainier National Park Co. v. Martin, 18 F. Supp. 481, on rehearing 23 F. Supp. 60, affirmed 302 U. S. 661, 82 L. Ed. 511 (1937).

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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